

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION**

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Ernesto Rivera, Johnny Mize, Robert Steven  
Pritchett, Dora Smith,

Plaintiffs,

vs.

BMW of North America, LLC,

Defendant.

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Civil Case No.: 2:19-cv-00007-Z-BR

**NOTICE OF SUPPLEMENTAL AUTHORITY**

Plaintiffs, by and through undersigned counsel, respectfully submit this Notice of Supplemental Authority to direct the Court to *Torres et al. v. BMW of North America, LLC*, No. 3:19-cv-00087-JD (N.D. Cal., Aug. 16, 2019) (ECF No. 41).<sup>1</sup> (A copy of the *Torres* Order is attached hereto as Exhibit A.) In *Torres*, the plaintiffs alleged BMW of North America, LLC (“BMW”) breached its warranty and violated state consumer protection laws by selling defective cars which consumed an excessive amount of engine oil and failing to repair the defect. BMW moved to dismiss the plaintiff’s Amended Complaint but the United States District Court for the Northern District of California denied the motion to dismiss in its entirety. In so doing, the *Torres* Court held that (1) the plaintiffs sufficiently stated claims for relief; (2) the plaintiffs “plausibly allege that relevant statutes of limitations were tolled under either fraudulent concealment tolling, discovery rule tolling or class action tolling because of *Bang v. BMW of North America, LLC*, No. 15-cv-6945 (D.N.J.)”; and (3) the plaintiffs have pled claims under

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<sup>1</sup> See *Highland Capital Mgmt. L.P. v. Bank of Am., Nat. Ass’n*, 2013 WL 4502789, at \*28 (N.D. Tex. Aug. 23, 2013) (“When supplemental authority issues after briefing is complete . . . the court will generally permit a party to file a notice of supplemental authority without seeking formal leave of court.”)

California consumer protection laws “with sufficient particularity by alleging numerous occasions during warranty period when defendant knew about oil consumption defect, but concealed and failed to disclose it to plaintiffs.”

Dated: August 21, 2019

Respectfully submitted,

/s/ Jody B. Burton  
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**CERTIFICATE OF SERVICE**

I hereby certify that on August 21, 2019, a true and correct copy of the foregoing was served electronically by the U.S. District Court for the Northern District of Texas Electronic Document Filing System (ECF) on all counsel of record.

By /s/ Jody B. Burton  
Jody B. Burton